

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER**

**IN THE MATTER OF:**

**CHARLES CHEVALIER AND DAWN  
CHEVALIER;**

**Des Moines County, Iowa**

**ADMINISTRATIVE CONSENT ORDER**

**NO. 2011-SW- 01  
NO. 2011-HC-01**

IO: Charles and Dawn Chevalier  
135 S. Marshall St.  
Burlington, IA 52601

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Charles and Dawn Chevalier for the purpose of resolving violations related to the improper disposal of leaded glass from discarded cathode ray tubes (CRTs).

Questions regarding this administrative consent order should be directed to:

**Relating to technical requirements:**

Kurt Levetzow, Field Office 6  
Iowa Department of Natural Resources  
1023 W. Madison  
Washington, IA 52353-1623  
Phone: 319-653-2135

**Relating to legal requirements:**

Jon Tack, Attorney for the DNR  
Iowa Department of Natural Resources  
502 E 9<sup>th</sup> St.  
Des Moines, IA 50319  
Phone: 515-281-8889

**II. JURISDICTION**

This administrative consent order is issued pursuant to the provisions of Iowa Code section 455B.307(2) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division IV, Part 1 (solid waste), and the rules adopted pursuant to that part; Iowa Code section 455B.392, which authorizes the recovery of cleanup costs from a person having control over a hazardous substance; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

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**III. STATEMENT OF FACTS**

1. Charles Chevalier and Dawn Chevalier operate a business in Burlington, Iowa known as the Corner Cobbler.

2. In the course of the operating of their business, Charles and Dawn Chevalier have accepted and dismantled CRTs.

3. On multiple occasions in 2011, from April through July, Charles and Dawn Chevalier disposed of leaded glass from CRTs by dumping the leaded glass into glass recycling bins at the Des Moines County Recycling Center. This glass is contaminated with lead and potentially other toxic components. Dumping continued after signs were posted at the Recycling Center specifically prohibiting the disposal of CRTs at the facility.

4. Upon determining that leaded glass had been disposed of at the Des Moines County Recycling Center, the Des Moines County Regional Solid Waste Commission began investigating the source of the leaded glass. Through this investigation, the Des Moines County Regional Solid Waste Commission was able to document the illegal disposal of the leaded glass by Charles and Dawn Chevalier.

5. Charles and Dawn Chevalier have acknowledged that they disposed of leaded glass from CRTs at the Des Moines County Recycling Center but asserted that they were unaware of the prohibition on such disposal.

6. The disposal of the leaded glass at the Des Moines County Recycling Center has created a hazardous condition as defined at Iowa Code section 455B.382(4).

7. Due to the hazardous contaminants contained in the CRT glass, the bins from Des Moines County Recycling Center which contain contaminated glass can not be recycled through normal recycling methods and must be transported to a facility equipped to handle and properly dispose of the leaded glass.

8. The Des Moines County Regional Solid Waste Commission has made arrangements to transport the contaminated glass to the Scott County Electronics Demanufacturing Facility for processing. The Des Moines County Regional Solid Waste Commission has agreed to provide transportation of the materials at a fixed price of \$640. The Scott County Recycling Center has agreed to process the material for a reduced charge of \$.15 per pound.

9. Charles and Dawn Chevalier have agreed to reimburse the Des Moines County Regional Solid Waste Commission for the costs of disposal of the contaminated glass as required by Iowa Code section 455B.392 but have indicated they are unable to arrange for and pay for the clean up costs prior to the cleanup being conducted.

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**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.304 provides that the Environmental Protection Commission (Commission) shall establish rules governing the handling and disposal of solid waste.

2. Iowa Code section 455B.307 and 567 IAC 100.4 prohibit a private or public agency from dumping or depositing or allowing the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the Director. The above-stated facts establish a violation of this provision.

3. Iowa Code section 455D.6(7) requires the DNR to develop a strategy and recommend to the Commission the adoption of rules necessary to implement a strategy for the recycling of electronic goods and the disassembling and removing of toxic parts from electronic goods. The Commission has adopted IAC Chapter 567-122 in satisfaction of this Code requirement.

4. 567 IAC 122.4 (1) requires that a CRT recycling facility obtain a permit for such activity. The above-stated facts establish violations of this provision.

5. 567 IAC 122.11 establishes the collection, handling, and transportation of CRTs. Subrule 122.11(c) states that CRT glass and CRTs that show evidence of breakage, leakage, or damage that could cause the release of lead or other hazardous constituents into the environment shall be collected in enclosed and separate containers from other discarded CRTs.

6. Pursuant to Iowa Code section 455B.387(1), when a hazardous condition exists, the director of the DNR may remove or provide for the removal and disposal of the hazardous substance at any time, unless the director determines such removal will be properly and promptly accomplished by the owner or operator of the vessel, vehicle, container, pipeline or other facility. Charles and Dawn Chevalier have confirmed that they are unable to properly and promptly remediate the hazardous condition.

7. Pursuant to Iowa Code section 455B.392(1)(a), a person having control over a hazardous substance is strictly liable to the state or a political subdivision for the reasonable cleanup costs incurred by the state or its political subdivision or the agents of the state or a political subdivision as a result of the failure of the person to clean up a hazardous substance involved in a hazardous condition caused by that person.

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**V. ORDER**

THEREFORE, the DNR orders and Charles and Dawn Chevalier agree to the following:

1. Charles and Dawn Chevalier shall not collect CRTs without first registering with DNR using Form 542-0060.
2. Charles and Dawn Chevalier shall not engage in the disassembly of CRTs without first obtaining a permit from the DNR.
3. Charles and Dawn Chevalier shall not dispose of or attempt to recycle CRTs or leaded glass from CRTs except in compliance with all state and federal laws regarding such materials.
4. Prior to the execution of this Order, Charles and Dawn Chevalier shall enter into a repayment plan with the Des Moines County Regional Solid Waste Commission for the repayment of expenses related to the handling, transportation and disposal of the contaminated glass received at the Des Moines County Recycling facility during the period of April of 2011 through July of 2011, including the glass contaminated by the introduction of leaded glass into the recycling containers, and shall fully comply with the terms and conditions of the repayment plan. Such repayment agreement shall establish and include the full, fixed, and final cost to be repaid to the Des Moines County Regional Solid Waste Commission.

**VI. PENALTY**

1. Iowa Code section 455B.307(3) authorizes the assessment of civil penalties of up to \$5,000 per day of violation for the solid waste disposal violations involved in this matter.
2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000, which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order without penalties at this time.
3. The DNR reserves the right to issue further administrative orders with penalties or to refer this matter to the Iowa Attorney General for enforcement in the event that Charles and Dawn Chevalier fail to comply with this Order or with the terms of the repayment plan with the Des Moines County Regional Solid Waste Commission.

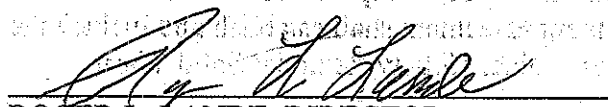
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**VII. WAIVER OF APPEAL RIGHTS**

This administrative consent order is entered into knowingly by and with the consent of Charles and Dawn Chevalier. By signature to this administrative consent order, all rights to appeal this administrative consent order are waived.

**VIII. NONCOMPLIANCE**


Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B 307. Compliance with paragraphs V.1-V.2 of Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order.

  
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ROGER L. LANDE, DIRECTOR  
Iowa Department of Natural Resources

Dated this 10th day of  
January, 2011

  
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CHARLES CHEVALIER

Dated this 21 day of  
12, 2011

  
\_\_\_\_\_  
DAWN CHEVALIER

Dated this 21 day of  
12, 2011

Field Office 6; Jon Tack; IV C; VIC